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**OFFICE OF PETITIONS
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In re Application of
Heinrich, et al.
Application No. 09/329,557
Filed: June 10, 1999
For: System for Reducing Aliasing on a Display
Device

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), timely filed January 12, 2000, Petitioner having obtained a four (4) months extension of time.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 10, 1999 without an executed oath or declaration and naming Heinrich, Mosley, Whitmore, Deming, Carlton, Buckelew, and Kirkland as joint inventors. None of the named joint inventors executed the declaration. Additionally, the declaration did not name Timothy Johnson as one of the joint inventors.

Accordingly, on July 19, 1999, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, the statutory basic filing fee, additional claims fees and a surcharge for late filing.

In response, on January 12, 2000, a Combined Declaration and Power of Attorney signed by Heinrich, Mosley, Whitmore, Deming, Carlton, Buckelew and Kirkland was filed. Although this declaration named Mr. Johnson as a joint inventor, he did not execute the declaration. Also filed on January 12, 2000 were the following: Petition Under 37 CFR 1.47(a) and Request for Four (4) Months Extension of Time Under 37 CFR 1.136(a) signed by attorney of record Steven G. Saunders; Declaration of Wendy Ormstedt (administrative assistant for assignee Intergraph Corporation) in Support of Petition Under 37 CFR 1.47; Declaration of Steven Saunders in Support of Petition Under 37 CFR 1.47; a copy of the Notice to File Missing Parts, mailed on July 19, 1999; and Response to Notice of Missing Parts. A check in payment of the statutory basic filing fee, surcharge, additional claims fees, and four (4) months extension of time fee was also included with the January 12, 2000 filing.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1) set forth above.

As to Item (1), it is unclear whether Mr. Johnson, the non-signing inventor, was presented with a complete copy of the application papers (specification, claims and drawings). See MPEP 409.03(d). In his declaration, Petitioner states in pertinent part:

On July 20, 1999, I mailed a "Declaration and Power of Attorney" (hereinafter "declaration") for the application to Mr. Stephen Phillips, Executive Vice President and General Counsel for Intergraph Corporation, for execution by all of the named inventors.

In her declaration, Ms. Ormstedt states:

One of my duties as administrative assistant is to forward declarations for patent applications to inventors for execution.

On August 5, 1999, I mailed a "Declaration and Power of Attorney" (hereinafter "declaration") for the immediate U.S. patent application (hereinafter "the application") to Mr. Johnson with a letter requesting that he execute and return the declaration at his "earliest convenience."

On August 19, 1999 ... I then mailed the same documents ... to (Mr. Johnson's) correct address on the same day.

The above-cited statements suggest that only a declaration and power of attorney were sent from Petitioner to Intergraph, and then from Intergraph to Mr. Johnson. However, the inventor must be presented with a complete copy of the application papers, including specification, claims and drawings. See MPEP 409.03(d). Although Ms. Ormstedt also states that on August 25, 1999 she "mailed a copy of the application to Mr. Johnson", it is unclear whether this "application" included the specification, claims and drawings (especially in light of Petitioner's statement that he only sent a "Declaration and Power of Attorney" to Intergraph, and Ms. Ormstedt's statements that her previous mailings to Mr. Johnson only included a "Declaration and Power of Attorney".)

Unless Mr. Johnson was presented with a complete copy of the application papers (specification, claims and drawings), he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration which was provided to him. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Applicant should show that a complete copy of the application papers was presented to the inventor, but that he did not respond to the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. If Applicant fails to show (via affidavit) that a complete copy of the application papers was presented to the non-signing inventor, then a copy of a cover letter transmitting the entire application papers to the non-signing inventor is required.

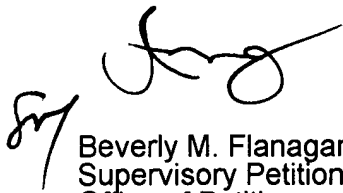
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
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Telephone inquiries related to this decision may be directed to Petitions Attorney Nelson B. Snyder III at (703) 305-0011.

A handwritten signature in black ink, appearing to read 'B. Flanagan', is positioned above the printed name and title.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy